John D. Nelson, Regional Director June 22, 1990
Region 19

Harold J. Datz, Associate General Counsel
Division of Advice

	536-2554-0100
United Food & Commercial Workers Local 44	536-2581-3307
Case 19-CB-6693	536-2581-3342
	548-6040-8100

This case was submitted for advice on whether the Union satisfied its obligations under CWA v. Beck, __U.S.__, 128 LRRM 2729 (1988).

FACTS

The parties' collective bargaining agreement contained a union-security clause. The Charging Party employee had been a Union member. On February9, 1990, Charging Party sent the Union a letter stating that he wanted to become a "financial core" member, wanted to pay only for representational costs, and wanted the Union to provide him with a complete financial breakdown of its operation, including income and expenditures.

The Union wrote the Charging Party that the Union's financial records for the last fiscal year (1989) were then being audited by an accounting firm. The Union stated that the Charging Party could withhold making any payments to the Union until the accounting firm determined the correct amount. [1] The Union has considered Charging Party to be a financial core member since receiving his letter.

In early April 1990, the Union mistakenly sent Charging Party a bill for the full amount of April dues and also for the monies he owed for 1989 strike dues. Charging Party paid the amount, $23.50, in full. On May 18, the Union advised Charging Party that the April bill had been a mistake. The Union also stated that the accounting firm had not yet determined the correct percentage figures for representational costs. The Union stated that it was estimating that percentage to be about 85 percent, and that it was allocating Charging Party's April payment according to that percentage.[2] The Union concluded by noting that,

[1] The Union did not offer to provide financial information for the previous year (1988) because it had never sought to have its expenses audited for that year.

[2] 85 percent of full dues is $19.98. Since Charging Party had been $6.00 in arrears for his February dues, the Union applied $6.00 of the $23.50 to that arrearage. The balance ($17.50) was applied to Charging Party's March dues arrearage, leaving a remaining arrearage for March of $2.48.

when it finally received the accounting firm report, it would adjust Charging Party's dues accordingly.

In the interim, in April 1990, the Union mailed to all unit employees a letter informing them that Charging Party had resigned and filed the instant unfair labor practice charge. The brief letter was purely informational and contained no threats.

ACTION

We concluded that the Union violated Section 8(b)(1)(A) by collecting 85 percent of Charging Party's full dues without providing the required Beck information.

In light of Beck, it is clear that a union may not charge objecting nonmembers full union-security dues if any portion of those dues is spent for nonrepresentational purposes. Therefore, if a union has a union-security clause covering statutory employees, and if it expends part of the funds collected thereunder on nonrepresentational activities, the union has an obligation to notify nonmember employees: (1) that a stated percentage of funds was spent in the last accounting year for nonrepresentational activities; (2) that nonmembers can object to having their union-security payments spent on such activities; and (3) that those who object will be charged only for representational activities.[3] In addition, the union must notify nonmembers that, if they object, the union will provide them with detailed information concerning the breakdown between representational and nonrepresentational expenditures.[4] Also, if the union has a "time window" for filing objections, the notice must set this forth. This notice to nonmember employees must be given at least once a year, as soon as practicable following the close of the union's accounting year.[5] This notice is usually referred to as the initial notice, i.e., the notice that tells employees of their Beck rights so that they can decide whether to file a Beck objection.

Upon receipt of a nonmember's objection, the union must provide that objector with information setting forth the union's major expenditures during the previous accounting year, distinguishing between representational and

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[3] See, Guidelines Concerning CWA v. Beck, G.C. Memorandum 88-14, dated November 15, 1988, at 3; Communications Workers of America and Local 4603 (Wisconsin Bell). Cases 30-CB-2626 and 2889, Advice Memorandum dated February 9, 1989; Musicians' Union, Local 47 (Los Angeles Philharmonic Association), Case 21-CB-10440, Advice Memorandum dated May 16, 1989.

[4] Beck Guidelines at 3.

[5] Beck Guidelines at 3.

nonrepresentational expenses.[6] While absolute precision cannot be expected or required, the information disclosed must inform the employee of the major categories of expenses, whether the union considers particular expenditures to be representational or nonrepresentational, the sum total of the expenditures, and the percentages of the total expenditures that were representational and nonrepresentational.[7] The information provided must be sufficient to allow the objector to decide whether to dispute the amount said to be representational and to lodge an intelligent and informed challenge to the breakdown of expenditures.[8]

In the instant case, we concluded that it would not effectuate the policies of the Act to allege that the Union's failure to provide the initial notice of Beck rights to the nonmember Charging Party violated Section 8(b)(1)(A). An initial Beck notice provides the necessary information for nonmembers to decide whether or not they want to object to the union's expending their union-security collected dues on nonrepresentational activities. Here, at the time when the Charging Party resigned his membership, he also objected to the Union's expending his dues for such activities. To send an initial Beck notice to the Charging Party was thus unnecessary and irrelevant. We therefore would not argue that the Union's failure to provide that notice violated the Act.

We also concluded that the Union's failure to immediately provide Charging Party with financial information setting forth the Union's previous accounting year's major expenditures, etc., was not unlawful. We have stated that unions must provide this information to an objecting nonmember "as soon as practicable after the close of the union's prior accounting year".[9] We have also granted a union "a reasonable period, i.e., until the end of the current quarter, to establish its procedures..." [10] In the instant case, immediately upon receiving Charging Party's resignation and objection, the Union informed Charging Party that the Union was compiling the requested Beck financial information, and that Charging Party need not pay anything to the Union pending his receipt of this information. It thus appears that the Union was attempting good faith compliance with its Beck obligations.

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[6] International Association of Machinists and Aerospace Workers and Lodge 1916 (General Electric Medical Systems), Cases 30-2418-1, et al., Advice Memorandum dated March 3, 1989, at p. 5.

[7] Beck Guidelines at 4.

[8] General Electric Medical Systems, supra at p. 5; Rockwell International, Rocketdyne Division, et al., Case 3-CA-l7492, Advice memorandum dated April 3, l989, at 11-l5.

[9] Beck Guidelines, at 3.

[10] Teamsters, Local 399 (Universal Studios), Case 31-CB-7832, Advice Memorandum dated March 23, 1989, at 4.

Although the Union's failure to immediately supply the requested information was therefore not considered unlawful, we noted that several more months have since elapsed. Therefore, if the Union does not forthwith provide Charging Party with Beck financial information, complaint should issue on this allegation.

We also concluded that complaint should issue, absent settlement, alleging that the Union unlawfully collected 85 percent of Charging Party's full dues. In the absence of an explanation as to how the Union arrived at the figure, we conclude that the figure has not been justified. It was, therefore, unlawful to impose it. If the Union supplies the necessary information within a reasonable period of time and such information justifies the 85 percent figure, the Region may take a settlement which permits the Union to assess the 85 percent figure. If the Union does not supply the information within a reasonable period, the Region should conclude that the Union is not in good faith and should not permit the assessment of any dues. UFCW (Meijer, Inc.), Case GR-7-CB-7711, Advice Memorandum dated February 23, 1989, at p. 7; Metal Trades Council, w[AFL-CIO] (Sandia National Laboratories)], Case 28-CB-2951-1, et al., Advice Memorandum dated July 20, 1989, at p.4; National Union of Hospital and Healthcare Employees, Local 1199NW (Group Health), Case 19-CB-6480, Advice Memorandum dated May31, 1989, at p. 3; Teamsters Local 399 (Universal Studios), Case 31-CB-7832, Advice Memorandum dated March23, 1989, at p.3.]

Finally, we concluded that the Union's April letter to all unit members did not violate the Act. The letter was purely informational and did not contain any threats, express or implied, against Charging Party.

H.J.D.